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EXAMINER

HENRY, MARIEGEORGES A

ART UNIT	PAPER NUMBER
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2155

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/573,734	Applicant(s) TRICAUD, LAURENT	
	Examiner MARIE GEORGES HENRY	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the amendment filed on 5/20/ 2006. Claim 1-12 are amended. Claims 1-12 are pending. Claims 1-12 directed to a method of playing a multimedia content transmitted by a third-party on a user device.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 are rejected under U.S.C. 112, first paragraph, because it is not disclosed in a manner that enables one ordinary person in the art to play a content while booting a computer. Appropriate correction is needed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not disclosed in a clear manner how one can boot a computer and play a content at the same time. The claimed term "a processor arrangement for booting" is indefinite and unclear. Appropriate clarification is needed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cohn** et al. (hereinafter "Cohn") (**US 6,317,791 B1**) in view of **Cromer** et al. (**US 6,304,899 B1**).

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Cohn discloses the invention substantially as claimed including a method of playing a multimedia content transmitted by a third-party on a user device (see abstract).

Regarding claim 1, Cohn discloses a user device comprising:

a network interface for communicating via a network (Cohn, column 3, lines 62-63, remote processing devices are linked through a communication network),

a processor arrangement for booting (Cohn, column 5, lines 14-26, a conventional personal computer is transferring information during start- up),

a module for implementing, a protocol for transmitting of the processor arrangement, (Cohn, column 5, lines 14-25, fig. 3, a browsing device contains basic routines that help transferring information between elements within the personal computer during start- up)

However, Cohn does not disclose a multimedia content by a third-party device to said user device via said network, a content player for playing, during said booting, multimedia content transmitted by said third-party device.

Cromer discloses a multimedia content by a third-party device to said user device via said network, a content player for playing, during said booting, multimedia

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content transmitted by said third-party device (Cromer, column 8, lines 23-36, fig. 3, from a server a booting operation system is launched with a list of application to a particular user's device).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Cromer's booting feature into Cohn's system in order to create a transmitting system with a booting feature in order to load the proper operation system in a plurality of OS environment. (Cromer, column 8, lines 11-15)

Regarding claim 2, Cohn and Cromer disclose a user device as claimed in claim 1 further comprising a memory for storing multimedia content, in addition Cohn discloses a system wherein:

a) said module for protocol-implementing transmits a first request asking whether said third-party device has multimedia content to download to said user device (Cohn, column 6, lines 50-60, data is transferred from a web server to a browsing device upon request from the browsing device),

receives a response to said first request (Cohn, column 6, lines 50-54, a communication system makes it possible for a browsing device to contact a remote server),

sends a second request, depending at least on said response, said second request asking for the download of multimedia content, receives the requested multimedia content (Cohn, column 6, lines 50-60, column 9, lines 47-54, a communication system make it possible for a browsing device to contact a remote server in order to play the data according to predefined conventions; the browser device attempts to detect an event; and after an idle period, the browser device connect to a host server for downloading data),

and stores the received content in said memory (Cohn, column 5, lines 26-39, storage systems that store a media content are disclosed), and

the content player plays other multimedia content stored in said memory prior to downloading the multimedia content (Cohn, column 5, lines 14-25; column 9, lines 61-65; a system is disclosed that can read, play, a media content before downloading it; a period of idle separates a first advertisement to a second advertisement).

Regarding claim 3, Cohn and Cromer disclose a user device as claimed in claim 1, in addition Cohn discloses wherein:

a) said module for protocol implementing transmits a request asking for the streaming of multimedia content (Cohn, column 6, lines 50-60, data is transferred from a web server to a browsing device upon request from the browsing device), and

receives multimedia content streamed by said third- party device in response to said request (Cohn, column 6, lines 1-5, a browser program is implemented to cause a graphical user interface to be displayed on a monitor), and

b) the content player plays the streamed multimedia content as it is received (Cohn, column 8, lines 2-9, a browsing device event interacts with a user interface of the browsing device to display the media content).

Regarding claim 4, Cohn and Cromer disclose a user device as claimed in claim 3, in addition Cohn discloses wherein the content player stops playing in response to said booting finishing (Cohn, column 8, lines 5-9, a browsing device will stop loading at the end of the booting process).

Regarding claim 5, Cohn discloses a method of playing a content on a user device having that communicates via a network, said method comprising the steps of:

booting said user device, (Cohn, column 8, lines 37-38, a start-up device is described)

implementing a protocol for transmitting, during said booting, multimedia content by a third-party device to said user device via said network a module for implementing, a protocol for transmitting of the processor arrangement (Cohn, column 5, lines 14-25, fig. 3, a browsing device contains basic routines that help transferring

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information between elements within the personal computer during start- up) , and

However, Cohn does not disclose playing, during said booting, multimedia content transmitted by said third- party device.

Cromer discloses playing, during said booting, multimedia content transmitted by said third- party device. (Cromer, column 8, lines 23-36, fig. 3, from a server a booting operation system is launched with a list of application to a particular user's device)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Cromer's booting feature into Cohn's method in order to create a transmitting method with a booting feature in order to load the proper operation system in a plurality of OS environment. (Cromer, column 8, lines 11-15)

Regarding claim 6, Cohn and Cromer disclose a method as claimed in claim 5 of playing a multimedia content on a user device which comprises a memory for storing multimedia content, in addition Cohn discloses wherein:

a) said protocol-implementing step includes comprises:

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transmitting a first request from said user device, said first request asking whether said third-party device has new multimedia content to download to said user device, (Cohn, column 6, lines 50-60, column 9, lines 48-49, a communication system that allows a user device to contact a remote server in order to play the data according to predefined conventions is disclosed; the detection of a event like the completion a download of a web page),

transmitting a response to said user device, at least if said third-party device has new multimedia content to download, (Cohn, column 6, lines 50-60, , column 9, lines 47-54; a communication system make it possible for a browsing device to contact a remote server in order to play the data according to predefined conventions; first the browser device attempts to detect an event; second the browser device connect to download)

transmitting a second request from said user device depending at least on said response, said second request asking for the download of said new multimedia content, and downloading said new multimedia content from said third-party device to said user device (Cohn, column 6, lines 50-60, column 9, lines 47-54 a communication system make it possible for a browsing device to contact a remote server in order to play the data according to predefined conventions; first the browser device attempts to detect an event, a successful connection to a web page; second the browser device connect to a host server for downloading the web page),

storing the downloaded multimedia content in said memory (Cohn, column 5, lines 26-39, storage systems that store a media content are disclosed), and

b) said playing step includes comprises playing multimedia content stored in said memory prior to said downloading (Cohn, column 5, lines 14-25; column 9, lines 61-65;a system is disclosed that can read, play, a media content before downloading-it; a period of idle separates a first advertisement to a second advertisement).

Regarding claim 7, Cohn and Cromer disclose a method as claimed in claim 5 of playing multimedia content on a user device, in addition Cohn discloses wherein:

a) said protocol-implementation step includes: transmitting a request from said user device, said request asking for the streaming of multimedia content (Cohn, column 6, lines 50-60, data is transferred from a web server to a browsing device upon request from the browsing device), and

streaming multimedia content from said third-party device to said user device in response to said request (Cohn, column 6, lines 1-5, a browser program is implemented to cause a graphical user interface to be displayed on a monitor), and

b) said playing step comprises playing the streamed multimedia content on said user device as it is received (Cohn, column 8, lines 2-9, a browsing device event interacts with a user interface of the browsing device to display the media content).

Regarding claim 8, Cohn and Cromer disclose a method of playing multimedia content as claimed in claim 5, in addition Cohn discloses wherein the transmitted multimedia content is customized by said third- party. (Cohn, column 10, lines 43-49, the host server selects a video advertisement according to a predetermined management

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process).

Regarding claim 9, Cohn and Cromer disclose a method of playing multimedia content as claimed in claim 5, in addition Cohn discloses wherein the transmitted multimedia content is compressed (Cohn, column 4, lines 45-46, an application -specific Integrated Circuit is coupled to a video encoder).

Regarding claim 10, Cohn discloses a third-party device for communicating via a network and for implementing a protocol for transmitting multimedia content to a user device via said network, comprising:

a receiver for receiving a first request sent by said user device during booting of the user device (Cohn, column 6, lines 50-60, a request from a browsing device is transmitted to the host server),

the second request asking for the download of a multimedia content, and a transmitter for transmitting a response to said user device, at least if said third-party device has multimedia content to download to said user device (Cohn, column 6, lines 50-60, column 9, lines 47-54 a communication system make it possible for a browsing device to contact a remote server in order to play the data according to predefined conventions; first the browser device attempts to detect an event, a successful connection to a web page; second the browser device connect to the host server for downloading to web page),

and for uploading multimedia content to said user device upon reception of said second request (Cohn, column 5, lines 14-25; column 9, lines 61-65; a system is disclosed that can read, play, a media content before downloading-it; a period of idle separates a first advertisement to a second advertisement).

However, Cohn does not disclose said first request asking whether said third-party device has a multimedia content to download to said user device and for receiving a second request sent by said user device during booting of the user device.

Cromer discloses said first request asking whether said third-party device has a multimedia content to download to said user device and for receiving a second request sent by said user device during booting of the user device. (Cromer, column 8, lines 23-36, fig. 3, from a server a booting operation system is launched with a list of application to a particular user's device)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Cromer's booting feature into Cohn's system in order to create a transmitting system with a booting feature in order to load the proper operation system in a plurality of OS environment. (Cromer, column 8, lines 11-15)

Regarding claim 11, Cohn discloses a system comprising:

at least a user device that while booting, initiates implementation of a communications protocol and plays multimedia content (Cohn, column 5, lines 14-26, a conventional personal computer is transferring information during start- up),

However, Cohn does not disclose a third-party device that, while the user device is booting, communicates with the user device during booting using the communications protocol and, while the user device is booting, transmits multimedia content to the user device and a network over which the communication and transmitting occurs.

Cromer discloses a third-party device that, while the user device is booting, communicates with the user device during booting using the communications protocol and, while the user device is booting, transmits multimedia content to the user device and a network over which the communication and transmitting occurs (Cromer, column 8, lines 23-36, fig. 3, from a server a booting operation system is launched with a list of application to a particular user's device).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Cromer's booting feature into Cohn's system in order to create a transmitting system with a booting feature in order to load

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the proper operation system in a plurality of OS environment. (Cromer, column 8, lines 11-15)

Regarding claim 12, Cohn and Cromer disclose a computer readable medium storing program comprising instructions for implementing a method as claimed in claim 5, when executed by a microprocessor of a user device (Cohn, column 3, lines 56-63, a system with a microprocessor and a hand-held device is disclosed).

6. The prior arts made of record and not relied upon are considered pertinent to applicant's disclosure. Burke (US 6,819, 340 B2) is made part of the record because of the teaching of QuickLaunch Bar display. Lucovsky et al. (US 6,836,794 B1) is made part of the record because of start menu. Liao et al. (US 7,245,926 B2) is made part of the record because of download service. Gatto et al. (US 7,297,062 B2) is made part of the record because of gaming services. Kuriyama (US 7,152,091 B2) is made part of the record because of the teaching of downloading Cook (US 7,197,038 B1) is made part of the record because of the teaching of Quality of service.

Response to Argument

7. Applicant's arguments filed on May 20, 2008 with respect to claims 1-12 have been considered but they are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the examiner should be **directed to Marie Georges Henry whose telephone number is (571) 270-3226**. The examiner can normally be reached on Monday to Friday 7:30am - 4:00pm. If attempts to reach the

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examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-5026. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marie Georges Henry/

Examiner, Art Unit 2155

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2155